

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|----------------------------|---|---------------|
| Gordon Roy Parker | : | |
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| Plaintiff | : | |
| | : | |
| v. | : | NO. 02-cv-567 |
| | : | |
| | : | |
| University of Pennsylvania | : | |
| | : | |
| Defendant | : | |

EXPLANATION AND ORDER

On November 5, 2003, I issued an order denying plaintiff's motion for partial summary judgment and denying defendant's motion for summary judgment, except with respect to plaintiff's gender discrimination claim (Docket #51). On November 13, 2003, plaintiff moved for reconsideration of my order (Docket #52). Plaintiff seeks the following relief in his motion:

1. *"An Order vacating summary judgment in favor of Defendant on the claim of gender discrimination for lack of jurisdiction, and reinstating the claim."* This request is granted. I dismissed plaintiff's gender discrimination claim based on a facsimile received from the EEOC stating that plaintiff had not filed a gender discrimination claim with the EEOC. Plaintiff has now provided evidence that he did in fact file a gender discrimination claim with the EEOC, a pre-requisite for bringing a discrimination claim.¹ "The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence." Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985). This mistake will be rectified, and

¹The EEOC filing is attached.

plaintiff's gender discrimination claim may proceed, because there is "newly discovered evidence."

2. *"An Order vacating the denial of Plaintiff's Motions to Compel Discovery Pursuant to Rules 26 and 37, and compelling Defendant to comply with all relevant discovery requests which remain (some are now moot due to the withdrawal/dismissal of certain causes of action) from all of Plaintiff's Interrogatories, Requests for Production of Documents, and Requests for Admissions."* This request is denied. See Explanation and Order of Nov. 3, 2003, p.7, note 5.

3. *"An Order vacating the denial of Plaintiff's Motion for Partial Summary Judgment and an accompanying Order which reflects the appropriate reconsideration of that motion in light of this Motion."* This request is denied. See Explanation and Order of Nov. 3, 2003.

4. *"In the alternative to reinstatement of the gender-discrimination claims, an Order staying these proceedings so that the new disparate-impact gender-discrimination claim can be resolved by the EEOC and added to this lawsuit as a new matter."* This request is denied as moot.

5. *"Leave for Plaintiff to file a Second Amended Complaint to conform with the pleadings regarding continuing retaliation which has occurred since this action was originally filed."* This request is denied. A detailed and comprehensive complaint was filed on February 4, 2002. This was followed on May 30, 2002 by the filing of a comprehensive First Amended Complaint. Allowance of any further amendments to the complaint would be contrary to the policy of efficient disposition by causing inappropriate delay.

6. *"In the alternative to reinstating the gender-discrimination claims, a finding that citizens, acting as private attorneys general, have standing to bring suit regardless of whether or not they have previously raised the issue with the EEOC."* This request is denied as moot.

7. *“An Order requiring Defendant’s Affirmative Action program to conform with ‘Title VII principles’ as intended by the OFCCP, including but not limited to extending all policies under its ‘diversity’ umbrella to apply equally to both genders, and further extending its actual Affirmative Action Plan (AAP) to allow for the definition of whites and males as underutilized when the statistical outcomes would justify a similar classification for nonwhites and females.”*

This request is denied. See Explanation and Order of Nov. 3, 2003

ORDER

AND NOW, this _____ day of January 2004, Plaintiff's Motion for Reconsideration of Order of November 3, 2003 is **DENIED** in part and **GRANTED** in part. Plaintiff's first request for relief, that his gender discrimination claim be reinstated, is granted. Plaintiff's remaining six requests are denied.

ANITA B. BRODY, J.

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